

ASSEMBLY BILL

No. 1545

Introduced by Assembly Member Simitian

February 21, 2003

An act to amend Section 21091 of the Public Resources Code, relating to environmental quality.

LEGISLATIVE COUNSEL'S DIGEST

AB 1545, as introduced, Simitian. Environmental quality: public comments.

The existing California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report (EIR) on a project that it proposes to carry out or approve that may have a significant effect on the environment, or to adopt a negative declaration if it finds that the project will not have that effect.

CEQA also requires a draft EIR, EIR, or negative declaration prepared pursuant to CEQA be prepared directly by, or under contract to, a public agency, and requires the lead agency that is preparing an EIR to provide public notice of that fact, specifying the period during which comments will be received on the draft EIR and the date, time, and place of any public meetings or hearings on the proposed project. CEQA authorizes information or other comments to be submitted in any format and requires the public agency to consider them if they are received within the public review period.

This bill would require the lead agency, with respect to the consideration of comments received on a draft EIR, to accept comments and testimony via e-mail and treat e-mail comments and testimony as equivalent to written comments and testimony.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 21091 of the Public Resources Code is
2 amended to read:
3 21091. (a) The public review period for a draft
4 environmental impact report ~~shall~~ *may* not be less than 30 days. If
5 the draft environmental impact report is submitted to the State
6 Clearinghouse for review, the review period shall be at least 45
7 days, and the lead agency shall provide a sufficient number of
8 copies of the document to the State Clearinghouse for review and
9 comment by state agencies.
10 (b) The public review period for a proposed negative
11 declaration or proposed mitigated negative declaration ~~shall~~ *may*
12 not be less than 20 days. If the proposed negative declaration or
13 proposed mitigated negative declaration is submitted to the State
14 Clearinghouse for review, the review period shall be at least 30
15 days, and the lead agency shall provide a sufficient number of
16 copies of the document to the State Clearinghouse for review and
17 comment by state agencies.
18 (c) Notwithstanding subdivisions (a) and (b), if a draft
19 environmental impact report, proposed negative declaration, or
20 proposed mitigated negative declaration is submitted to the State
21 Clearinghouse for review and the period of review by the State
22 Clearinghouse is longer than the public review period established
23 pursuant to subdivision (a) or (b), whichever is applicable, the
24 public review period shall be at least as long as the period of review
25 by the State Clearinghouse.
26 (d) (1) The lead agency shall consider ~~any~~ comments it
27 receives on a draft environmental impact report, proposed
28 negative declaration, or proposed mitigated negative declaration
29 if those comments are received within the public review period.
30 (2) (A) With respect to the consideration of comments
31 received on a draft environmental impact report, the lead agency
32 shall evaluate ~~any~~ comments on environmental issues that are
33 received from persons who have reviewed the draft and shall
34 prepare a written response pursuant to subparagraph (B). The lead



1 agency may also respond to comments that are received after the
2 close of the public review period.

3 (B) The written response shall describe the disposition of ~~any~~
4 *each* significant environmental issue that is raised by commenters.
5 The responses shall be prepared consistent with Section 15088 of
6 Title 14 of the California Code of Regulations, as those regulations
7 existed on June 1, 1993.

8 (3) *With respect to the consideration of comments received on*
9 *a draft environmental impact report, the lead agency shall accept*
10 *comments and testimony via e-mail and shall treat e-mail*
11 *comments and testimony as equivalent to written comments and*
12 *testimony.*

13 (e) (1) Criteria for shorter review periods by the State
14 Clearinghouse for documents that must be submitted to the State
15 Clearinghouse shall be set forth in the written guidelines issued by
16 the Office of Planning and Research and made available to the
17 public.

18 (2) Those shortened review periods ~~shall~~ *may* not be less than
19 30 days for a draft environmental impact report and 20 days for a
20 negative declaration.

21 (3) ~~Any~~ A request for a shortened review period shall only be
22 made in writing by the decisionmaking body of the lead agency to
23 the Office of Planning and Research. The decisionmaking body
24 may designate by resolution or ordinance a person authorized to
25 request a shortened review period. ~~Any~~ A designated person shall
26 notify the decisionmaking body of this request.

27 (4) ~~Any~~ A request approved by the State Clearinghouse shall be
28 consistent with the criteria set forth in the written guidelines of the
29 Office of Planning and Research.

30 (5) A shortened review period ~~shall~~ *may* not be approved by the
31 Office of Planning and Research for ~~any~~ *a* proposed project of
32 statewide, regional, or areawide environmental significance as
33 determined pursuant to Section 21083.

34 (6) ~~Any~~ An approval of a shortened review period shall be
35 given prior to, and reflected in, the public notice required pursuant
36 to Section 21092.

37 (f) Prior to carrying out or approving a project for which a
38 negative declaration has been adopted, the lead agency shall
39 consider the negative declaration together with ~~any~~ comments that

1 were received and considered pursuant to paragraph (1) of
2 subdivision (d).

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